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STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL

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THOMAS M. BENEDICT
COMMISSIONER

May 1, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Commissioner Andrew C. Barrett
1919 M Street, Room 826
Washington, DC 20554

Re: Ex Parte Presentation
PR Dkt. No. 94-106

Dear Commissioner Barrett:

As you prepare to make your decision regarding the Connecticut Department of Public Utility Control's pending petition to retain regulatory control over the rates of wholesale cellular providers in the State of Connecticut, I want to take this opportunity to highlight the reasoning behind the Department's petition. We believe that favorable action on the petition by the FCC is essential if the market for cellular and other commercial mobile radio services in Connecticut is to become competitive and the interests of Connecticut consumers are to be served. It is unfortunate that our schedules did not permit a meeting when I and others from Connecticut were in Washington on April 7th. We were able, however, to arrange what I thought were productive meetings with your staff, the staff of the other Commissioners, and various members of the Wireless Bureau, for which I express my thanks.

At the outset, the DPUC, the State of Connecticut and the FCC share the common goal of replacing regulation with competition in wireless markets when and where effective competition will ensure that Connecticut consumers are protected from unjust and unreasonable rates. Indeed, the Connecticut State legislature has specifically directed the Department to pursue this deregulatory, market-based approach with respect to all of the telecommunication industries currently subject to its jurisdiction. Connecticut for example, counts itself as among the nation's leaders in promoting wireline competition and authorizing new, competitive wireline services and service providers. The only issue for the Department in this proceeding, therefore, is when, not if, deregulation should occur.

With this as a guiding principle, the Department initiated an investigation to determine whether the market for cellular services is currently sufficiently competitive to protect consumers absent continued regulatory control. As a basis of the investigation, the Department specifically considered the eight criteria suggested by the FCC as pertinent to its review of state petitions seeking continued regulatory authority. After

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taking testimony from witnesses representing the cellular carriers, the cellular resellers, the State of Connecticut Office of Attorney General and the Office of Consumer Counsel during a seven day, fully adversarial hearing, the Department on August 8, 1994 issued its decision addressing each of the eight types of evidence.

The Department found, among other things, that the current CMRS market conditions sustain anti-competitive and discriminatory practices on the part of the wholesale cellular carriers, that the present rate structures of the wholesale providers do not produce reasonable and just rates, that the Connecticut cellular market is controlled by the two wholesale carriers and their retail affiliates, that there are no substitutes for cellular services at this time, and that effective competition in the CMRS market will not occur until one to two years following the entry of PCS and ESMR service providers. These findings led us inexorably to the conclusion that the existing CMRS market in Connecticut was not yet sufficiently competitive to adequately protect consumers from unjust and unreasonable rates or rates that are unjustly and unreasonably discriminatory, and that the public interest would be served by continued regulatory control.

Nevertheless, the Department was exceedingly careful to fashion a reasonably scaled approach for reevaluating the CMRS market in the near future, when other CMRS providers may have entered the Connecticut marketplace. Specifically, we will review the Connecticut CMRS market in a proceeding to be initiated on July 1, 1996. The Department seeks to retain jurisdiction over the wholesale cellular providers only until such time as the CMRS market in Connecticut becomes competitive, which we anticipate will happen when PCS and ESMR providers are operational. Based on how CMRS competition currently appears to be developing, we foresee that we would not need to regulate cellular rates beyond 1997.

In conclusion, based on the evidence submitted during the course of the adversarial hearing conducted for the specific purpose of determining whether to petition the FCC for continued authority to regulate cellular services, I firmly believe that termination of the Department's jurisdiction over the wholesale cellular carriers at this time would be premature and would significantly disrupt Connecticut's CMRS marketplace.

Respectfully submitted,



Thomas M. Benedict
Commissioner